

**THE SECONDARY MORTGAGE LOAN ACT (EXCERPT)**  
**Act 125 of 1981**

**493.52a Performance of services as secondary mortgage loan officer; requirements; criminal history check; registration; application; form; information to be provided; performance of services while application pending; issuance of registration; waiver of requirements; individual considered as secondary mortgage loan officer registrant.**

Sec. 2a. (1) Beginning April 1, 2009, an employee or agent of a licensee or registrant, other than an individual described in subsection (9), shall not perform services of a secondary mortgage loan officer unless he or she registers or otherwise complies with this section.

(2) A licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, an individual, other than an individual described in subsection (9), as a secondary mortgage loan officer to originate secondary mortgage loans after March 31, 2009 shall conduct a criminal history check of that individual. All of the following apply to the criminal history check of an individual required under this subsection:

(a) The department of state police and the federal bureau of investigation shall perform the criminal history check required under this subsection.

(b) The individual who is the subject of the criminal history check shall have his or her fingerprints taken by a law enforcement agency or by another person that the commissioner determines is qualified to take fingerprints; pay the agency or person the fees required by the department of state police under section 3 of 1935 PA 120, MCL 28.273, and by the federal bureau of investigation, for processing fingerprints and completing a criminal history check; and request that the agency or person forward the fingerprints, a request for a criminal history check of the individual in the format and as prescribed by the department of state police, and the fees to the department of state police.

(c) The department of state police shall forward the fingerprints and appropriate fee to the federal bureau of investigation for a national criminal history check.

(d) After receiving a proper request and the required fees under this subsection, the department of state police shall conduct the criminal history check and provide the licensee or registrant with the results of the criminal history check. The results shall contain any criminal history record information concerning the individual maintained by the department of state police and the results of the federal bureau of investigation's criminal history check.

(e) The licensee or registrant shall submit the results of the criminal history check described in subdivision (d) to the commissioner with the application for secondary mortgage loan officer registration described in subsection (4) or for purposes of subsection (5).

(f) The criminal history check required under this subsection may be conducted by the licensee or registrant, requested of and performed by the department of state police and the federal bureau of investigation, and submitted to the commissioner at any time on or after January 1, 2009.

(g) If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this subsection and stored by the department of state police in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commissioner.

(3) Beginning April 1, 2009, if an individual, other than an individual described in subsection (9), is employed or engaged as an agent to originate secondary mortgage loans by a licensee or registrant, that individual shall apply for secondary mortgage loan officer registration under this section within 90 days after he or she begins providing services as an employee or agent of the licensee or registrant, by submitting the application described in subsection (4), in writing, and including with the application the annual operating fee established under section 6a(6).

(4) The commissioner shall prescribe the form of application for registration as a secondary mortgage loan officer. Subject to subsection (8), the application form shall require that an applicant provide at least all of the following to the commissioner:

(a) The name and home address of the applicant.

(b) A statement as to whether the applicant has ever been convicted of, or pled no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(c) A statement as to whether the applicant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a broker, lender, or servicer in which the applicant held more

than 25% of the ownership interest or as a secondary mortgage loan officer.

(d) Except for an application described in subsection (7), proof in the form of a certificate of completion or other evidence acceptable to the commissioner that the applicant has completed at least 24 hours of live professional classroom instruction in this state in an introductory course in residential mortgage lending that is sponsored or provided by a person, and taught by an instructor, approved by the commissioner. The 24 hours of instruction shall include at least 3 hours of live classroom instruction concerning state and federal laws and regulations governing residential mortgage lending, the content of which has been approved by the commissioner.

(e) Evidence acceptable to the commissioner that the applicant correctly answered at least 75% of the questions on an examination approved by the commissioner that tests an applicant's knowledge of the contents of the introductory course in residential mortgage lending described in subdivision (d).

(f) The results of the criminal history check described in subsection (2).

(g) The signature of the applicant and his or her declaration that the information and statements made in or included with the application are true, accurate, and complete.

(h) The signature of an executive officer on behalf of the licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, the applicant, and the executive officer's certification on behalf of the licensee or registrant that the information and statements in or included with the application are true, accurate, and complete to the best of his or her knowledge and belief.

(i) Any other information required by the commissioner.

(5) Beginning April 1, 2009, an applicant for secondary mortgage loan officer registration may perform services as a secondary mortgage loan officer while his or her application is pending if all of the following are met:

(a) The licensee or registrant that is the employer or principal of the applicant has completed the criminal history check of the applicant described in subsection (2) and submitted the results of that criminal history check to the commissioner.

(b) The criminal history check described in subdivision (a) does not disclose that the applicant has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(c) The licensee or registrant that is the employer or principal of the applicant has provided the commissioner with written notice that the applicant is beginning to provide services as a secondary mortgage loan officer for the licensee or registrant.

(6) The commissioner shall not issue a registration to any of the following:

(a) An applicant who has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(b) An applicant against whom the commissioner has issued a prohibition order under section 14a.

(c) An applicant for whom the commissioner has not received the results of the criminal history check described in subsection (2).

(d) An individual described in subsection (9).

(7) The commissioner must register a secondary mortgage loan officer who meets all of the following:

(a) For the 5-year period immediately preceding the effective date of the amendatory act that added this section, he or she was employed or engaged as a secondary mortgage loan officer for at least 4-1/2 years by 1 or more licensees, registrants, or persons exempt from this act under section 29 or 29a.

(b) He or she was not the subject of any prohibition orders issued by the commissioner under section 14a in the 5-year period immediately preceding the effective date of the amendatory act that added this section.

(c) Before April 1, 2009, he or she takes the examination described in subsection (4)(e) and correctly answers at least 75% of the questions on the examination.

(d) Before April 1, 2009, he or she submits an application under subsection (4). However, the applicant is not required to complete or submit proof of completion of the instruction described in subsection (4)(d).

(e) He or she is not an applicant described in subsection (6).

(8) The commissioner may waive any of the requirements of this section for secondary mortgage loan officer registration if the applicant has a valid, similar license or registration from another state that has a reciprocal agreement with the commissioner, except subsection (6)(a) and (c).

(9) Beginning April 1, 2009, an individual who meets all of the following may perform services of a secondary mortgage loan officer without registering under or otherwise complying with this section:

(a) Is an employee or agent of a broker, lender, or servicer that is also a mortgage broker, mortgage lender, or mortgage servicer under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(b) Is currently registered as a loan officer under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(10) An individual described in subsection (9) is considered a secondary mortgage loan officer registrant for purposes of this act.

**History:** Add. 2008, Act 325, Imd. Eff. Dec. 18, 2008.